

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN ALLEN ALEXANDER, JR., #182285,

Petitioner,

v.

CASE NO. 2:20-CV-11275
HONORABLE ARTHUR J. TARNOV

RANDEE REWERTS,

Respondent.

_____ /

**ORDER TRANSFERRING CASE TO THE UNITED
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Michigan prisoner John Allen Alexander, Jr. (“Petitioner”), currently confined at the Kinross Michigan Correctional Facility in Kincheloe, Michigan, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 concerning his 2011 convictions for second-degree fleeing and eluding a police officer, Mich. Comp. Laws § 257.602a(4)(b), and resisting or obstructing a police officer, Mich. Comp. Laws § 750.81d(1), which were imposed following a jury trial in the Wayne County Circuit Court. He was sentenced, as a fourth habitual offender, Mich. Comp. Laws § 769.12, to concurrent terms of life imprisonment and 5 to 15 years imprisonment on those convictions. In his current petition, he asserts that the state trial court abused its discretion by denying him re-sentencing because his current sentences violate his Sixth Amendment rights. Petitioner, however, has previously filed a federal habeas petition challenging the same convictions and sentences at issue in this case, which was denied and dismissed with prejudice. *See Alexander v. Hoffner*, No. 2:15-CV-11364 (E.D. Mich. Sept. 27, 2018), *cert. of app. den. sub nom Alexander v. Rewerts*, No. 18-2211, 2019 WL 5306840 (6th Cir. Jan. 18, 2019), *cert. den.* __ U.S. __, 139 S. Ct. 2621 (2019).

Under the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), codified at 28 U.S.C. § 2241 *et seq.*, an individual seeking to file a “second or successive” habeas petition must ask the appropriate court of appeals for an order directing the district court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998); *In re Wilson*, 142 F.3d 939, 940 (6th Cir. 1998). This requirement transfers to the court of appeals a screening function which the district court previously performed. *Felker v. Turpin*, 518 U.S. 651, 664 (1996). Petitioner has neither sought nor obtained appellate authorization to file a subsequent federal habeas petition as required by 28 U.S.C. § 2244(b)(3)(A). Consequently, the Court concludes that it must transfer this case to the United States Court of Appeals for the Sixth Circuit.

Accordingly,

The Court **ORDERS** the Clerk of the Court to transfer this case to the Sixth Circuit pursuant to 28 U.S.C. § 1631¹ and *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997) (“when a prisoner has sought § 2244(b)(3) permission from the district court, or when a second or successive petition for habeas corpus relief . . . is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this court pursuant to 28 U.S.C. § 1631”).

s/ R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: June 9, 2020

¹28 U.S.C. § 1631 provides in pertinent part that:

Whenever a civil action is filed in a court . . . and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action . . . to any other such court in which the action . . . could have been brought at the time it was filed . . . , and the action . . . shall proceed as if it had been filed in . . . the court to which it is transferred on the date upon which it was actually filed in . . . the court from which it was transferred.